

Chief Judge Ricardo S. Martinez

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,  
Plaintiff,

v.

(1) DELMER VELASQUEZ-LICONA,  
(2) RODRIGO ALVAREZ-QUINONEZ,  
(3) JORGE CRUZ-HERNANDEZ,  
(4) JUAN HERNANDEZ-HERNANDEZ,  
(5) JOSE FERNANDO ESCOTO-FIALLOS,  
(6) SAUL SUAREZ-MATA,  
(7) JORGE ALBERTO RAMOS, and  
(8) TARA SCOTT,

Defendants.

NO. CR20-093RSM

ORDER

The Court issues this order after reviewing the government's motion to continue the trial date that was joined by four of the five remaining defendants, and all briefing filed in response to the motion.

Trial is currently scheduled for September 13, 2021. This is the second request for a countenance of the trial date. In response to a request from the parties, the Court previously indicated that the following trial dates were open: November 1, 2021, December 13, 2021,

1 and January 18, 2022. The respective position of counsel for the defendants regarding the  
2 continuation of the trial date is as follows:

3 Delmer Velsquez-Licona (defense counsel Lauren Wegener): Does not oppose a  
4 continuance and will sign a speedy trial waiver. If the trial is continued, prefers a January 18,  
5 2022, trial date.

6 Rodrigo Alvarez-Quinonez (defense counsel Terrence Kellog): At the time of the  
7 filing of this motion, counsel has not had an opportunity to consult with his client. Counsel  
8 believes his client will likely oppose any motion to continue the trial date.

9 Jorge Cruz-Hernandez (defense counsel Jennifer Horwitz and Fatima Dilek): Does not  
10 oppose a continuance and will sign a speedy trial waiver. If the trial is continued, does not  
11 oppose any of the three proposed dates, but prefers November 1 or December 13, 2021.

12 Jose Escoto-Fiallos (defense counsel Christopher Black and Sade Smith): Does not  
13 oppose a continuance and will sign a speedy trial waiver. If the trial is continued, prefers a  
14 December 13, 2021, trial date.

15 Jorge Ramos (defense counsel Phil Brennan): Does not oppose a continuance and will  
16 sign a speedy trial waiver. If the trial is continued, prefers a January 18, 2022, trial date.

17 The government indicated that it was prepared to proceed to trial on September 13,  
18 2021, but acknowledged the difficulties – primarily imposed by the COVID pandemic –  
19 encountered in fully and fairly negotiating and resolving the pending charges.

20 Having considered the proposed requests for a continuance, any responses and  
21 objections, and all the files and records herein, the Court finds and rules as follows:

22 The facts supporting continuing the trial and excluding the consequent delay include  
23 the following: (a) the large number of defendants charged; (b) the large number of charged  
24 counts; (c) the number of related indictments and related defendants; (d) the nature of the  
25 prosecution, which includes wiretaps over multiple phone lines; (e) the significant sentences  
26 faced by all of the defendants as currently charged, (e) the volume of discovery which has  
27 resulted in the appointment of a discovery coordinator at the request of the defendants, and  
28 (g) the need for defense counsel to have an appropriate period to review discovery, consult

1 with their clients, and prepare a defense. In this regard, the Court adopts the facts set forth in  
2 the Government's Status Memorandum (Dkt. 110), and which were not contested by any  
3 defendant.

4 Additional facts supporting continuing the trial and excluding the consequent delay  
5 include the following: (a) the difficulties that the COVID-19 pandemic has imposed on  
6 counsel in consulting with their clients, especially those who are incarcerated, and (b) the  
7 fact that the COVID-19 pandemic has delayed the government's efforts to speak with those  
8 defendants who wish to proffer and hindered efforts to negotiate and resolve cases. The  
9 Court recognizes that a failure to continue the trial date might unreasonably penalize those  
10 defendants who still wish to negotiate a resolution with the government.

11 THIS COURT FINDS, pursuant to Title 18, United States Code, Section  
12 3161(h)(7)(B)(i) and (ii) that this case is sufficiently unusual and complex, due the  
13 combination of the number of defendants and the nature of the prosecution, and that the  
14 COVID-19 pandemic has adversely impacted the counsel's ability to effectively consult with  
15 their clients to either discuss potential resolution short of trial or to prepare for trial, such that  
16 it is unreasonable to expect adequate preparation by the parties for pretrial proceedings or for  
17 the trial itself by the current trial date.

18 THE COURT THEREFORE FINDS that failure to grant the continuance in this case  
19 would likely make the continuation of these related proceedings impossible and result in a  
20 miscarriage of justice, because failing to continue this matter would deny counsel for the  
21 parties the reasonable time necessary for effective preparation, due to defense counsels' need  
22 for more time to review the considerable volume of discovery and evidence produced, and  
23 still to be produced, and to consider possible defenses and motions, taking into account the  
24 exercise of due diligence.

25 THE COURT FINDS, in light of these factors, that it is unlikely that the parties can  
26 be reasonably ready to try this matter before January 18, 2022, at the earliest.

27 THIS COURT FINDS, pursuant to Title 18, United States Code, Section 3161(h)(6)  
28 and (7), that this is a reasonable period of delay in that the majority of the defendants have

1 indicated they require more time to prepare for trial or to negotiate a resolution of the  
2 charges. The Court finds that given the complexity of the case, the number of defendants,  
3 and the volume of discovery produced, and still to be produced, that more time is, in fact,  
4 necessary.

5 THIS COURT FINDS, therefore, that pursuant to Title 18, United States Code,  
6 Sections 3161(h)(6) and 3161(h)(7), the ends of justice will best be served by a continuance,  
7 and that they outweigh the interests of the public and the defendants in a speedy trial.

8 THIS COURT FURTHER FINDS that all of the additional time requested between  
9 the current trial date of and the new trial date of January 18, 2022, is necessary to provide  
10 counsel for the defendants the reasonable time necessary to prepare for trial.

11 THE COURT FURTHER FINDS that the objection of Defendant Alvarez-Quinonez  
12 to a continuance is hereby overruled. Defendants in this case are alleged to have conspired  
13 together. All of the charges arise out of a common investigation, including common wiretap  
14 applications and a common search warrant application. It is well established that in multi-  
15 defendant cases, a reasonable trial continuance as to any defendant tolls the Speedy Trial Act  
16 period as to all joined co-defendants, even those who object to a trial continuance or who  
17 refuse to submit a waiver under the Speedy Trial Act. *See* 18 U.S.C. § 3161(h)(6).

18 NOW, THEREFORE, IT IS HEREBY ORDERED that the trial date and pre-trial  
19 motions deadline, and all other associated deadlines are stricken.

20 IT IS HEREBY ORDERED that stipulating defendants shall file speedy trial waivers  
21 as soon as reasonable possible in light of the COVID-19 pandemic, to the extent they have  
22 not already done so.

23 IT IS FURTHER ORDERED that the time between this date and the new trial date is  
24 excluded in computing the time within which a trial must be held pursuant to Title 18,  
25 United States Code, Section 3161, et seq.

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2 IT IS HEREBY ORDERED, that the trial date will be continued as to all Defendants  
3 until January 18, 2022 at 9:00 a.m. Pre-trial motions are due by November 19, 2021.  
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5 DATED this 20<sup>th</sup> day of July, 2021.  
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9 RICARDO S. MARTINEZ  
10 CHIEF UNITED STATES DISTRICT JUDGE

11 Presented by:  
12 TESSA M. GORMAN  
13 Acting United States Attorney

14 /s/ Stephen Hobbs  
15 STEPHEN HOBBS  
16 Assistant United States Attorneys  
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